

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



October 28, 2003

Agenda ID # 2906
Ratesetting

TO: PARTIES OF RECORD IN APPLICATION 00-07-031

This is the draft decision of Administrative Law Judge (ALJ) Econome. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:hfl

Attachment

Decision **DRAFT DECISION OF ALJ ECONOME** (Mailed 10/28/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company
For Certain Findings Regarding the Settlement
Agreement and General Release Made May 1,
2000, By and Between South San Joaquin
Irrigation District and Pacific Gas and Electric
Company (U 39 E).

Application 00-07-031
(Filed July 18, 2000)

ORDER DISMISSING APPLICATION WITHOUT PREJUDICE**I. Summary**

This order dismisses Pacific Gas and Electric Company's (PG&E) application without prejudice.

II. Background

South San Joaquin Irrigation District (the District) and PG&E entered into a settlement agreement on May 1, 2000 relating to the District's allegations that PG&E adversely affected the District's efforts to enter into the electric distribution business. The settlement includes an option for the District to acquire by condemnation certain PG&E distribution facilities, and imposes a deadline relating to the condemnation.

Following the execution of the settlement agreement, PG&E filed an application with the Commission to determine whether Pub. Util. Code § 851 should apply to the transfer of assets under the settlement. Because of the

pendency of this application, the parties agreed to extend the deadline for the condemnation to 60 days following a Commission decision satisfactory to PG&E.

III. Discussion

The circumstances have materially changed since the filing of this application. When, or whether, the condemnation action contemplated by the settlement will occur is unsettled. The parties cite certain events, such as PG&E's bankruptcy filing, which have intervened. Because the Commission generally does not issue advisory opinions, we believe it prudent to dismiss this application without prejudice to PG&E filing it at a later point in time when the application can be processed with more certain considerations.

IV. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

V. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Janet A. Econome is the assigned ALJ in this proceeding.

Findings of Fact

1. The circumstances have materially changed since the filing of this application.
2. There is currently great uncertainty about when, whether, and under what terms the settlement existing at the time this application was filed will be carried out.
3. In general, the Commission does not issue advisory opinions.

Conclusions of Law

1. This application should be dismissed without prejudice.
2. This decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Application 00-07-031 is dismissed without prejudice.
2. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.